

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

**IN RE: JOHNSON & JOHNSON
TALCUM POWDER PRODUCTS
MARKETING, SALES PRACTICES,
AND PRODUCTS LIABILITY
LITIGATION**

MDL No. 2738 (FLW) (LHG)

This document relates to: Kenneth Cole, Sr.,
Individually and O/B/O Velda Cole (deceased) v.
Johnson & Johnson, et al.; 3:20-cv-06814-FLW-
LHG

MOTION TO SUBSTITUTE PARTY PLAINTIFF

COMES NOW, undersigned counsel for Plaintiff, pursuant to Rule 25(a)(1) of the Federal Rules of Civil Procedure, and moves this Court for an Order substituting Plaintiff Kenneth Cole, Sr. with Kenneth Cole, Jr., as Plaintiff and anticipated Personal Representative of the Estate of Velda Cole, and in support states as follows:

1. Plaintiff Kenneth Cole, Sr., the Plaintiff in this action, passed away on or about August 10, 2020, as evidenced by the attached Certificate of Death (Ex. 1).
2. Kenneth Cole, Jr., as son of decedent Velda Cole and Plaintiff Kenneth Cole, Sr. and the anticipated personal representative of the Estate of Velda Cole is a proper party to substitute for the deceased Plaintiff Kenneth Cole, Sr. and has proper capacity to proceed forward with the surviving products liability lawsuit on his behalf.
3. Absent direct filing, venue is proper in the United States District Court for the Northern District of Texas. The Texas Survival Statute allows a decedent's heirs, legal representatives, and estates to bring actions for personal injury suffered by the decedent

before his/her death. Tex. Civ. Prac. & Rem. Code Ann. § 71.021. Therefore, neither decedent Velda Cole's nor Plaintiff-decedent Kenneth Cole, Sr.'s claims have been extinguished. Plaintiff Kenneth Cole, Jr. is a proper party to continue this lawsuit as the anticipated personal representative of both Velda Cole's and Kenneth Cole, Sr.'s estates.

WHEREFORE, Kenneth Cole, Jr. respectfully requests that he be substituted for the deceased Plaintiff Kenneth Cole, Sr. in this cause of action, and that he be permitted to file an amended complaint in this matter substituting himself as Plaintiff in the wrongful death and survival claim brought on behalf of decedent Velda Cole.

Dated: January 26, 2021

Respectfully submitted,

By: /s/ Jonas Mann
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CERTIFICATE OF SERVICE

I hereby certify that I have this 26th day of January, 2020, electronically filed the foregoing with the Clerk of Court using CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Jonas Mann

Jonas Mann